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09/631,238	08/02/2000	Catherine Lin-Hendel	LH013	8086
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ANATOLY S. WEISER 3525 DEL MAR HEIGHTS ROAD, #295 SAN DIEGO, CA 92130				
EXAMINER				
GART, MATTHEW S				
ART UNIT		PAPER NUMBER		
3625				
MAIL DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/631,238

**Applicant(s)**

LIN-HENDEL, CATHERINE

**Examiner**

Matthew S. Gart

**Art Unit**

3625

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on RCE 1/14/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-11 and 20-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-11 and 20-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/14/2008 has been entered.

### ***Prosecution History Summary***

- Claims 1-5, 7-11 and 20-30 are pending.
- Claims 6 and 12-19 have been cancelled.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-5, 7-11 and 20 are rejected under 35 U.S.C. 101 as being directed towards non-statutory subject matter.**

Claims 1 and 20 set forth means-plus-function type limitations. The specification as originally filed on page 12 recites:

"The present invention is implemented using software which can be written in many programming languages, or implemented with many web-page generation tools."

Therefore it can be assumed that the means-plus-function type limitations are directed to software per se and does not fall within any of the categories of patentable subject matter set forth in §101.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-5, 7-11 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

The Examiner notes, the corresponding structure to the means-plus-function limitations set forth in independent claims 1 and 20 are not disclosed in the specification in a way that one skilled in the art will understand what structure (or material or acts) will perform the recited function. See *Atmel Corp. v. Information Storage Devices, Inc.*, 198 F.3d 1374, 1381, 53 USPQ2d 1225, 1230 (Fed. Cir. 1999).

35 U.S.C. 112, sixth paragraph states that a claim limitation expressed in means-plus-function language "shall be construed to cover the corresponding structure...described in the specification and equivalents thereof." "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112." In re *Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ2d 1845, 1850 (Fed. Cir. 1994) (in banc).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-5, 7-11 and 20-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schileru-Key (U.S. Patent No. 6,580,441) in view of Mona (PTO-892, Ref U).**

Referring to claim 1. Schileru-Key discloses a system for displaying galleries, showrooms, stores or malls on-line, comprising:

means for displaying on an on-line display device to a viewer a plurality of views of at least one room having a first object therein, wherein the means for displaying the plurality of views includes a data packet storing the plurality of views of the at least one room (Schileru-Key: column 13, lines 11-22); and,

command buttons enabling the viewer to virtually move both around the room and around said first object when said first object is displayed in the plurality of different still photographs (Schileru-Key: Fig. 11, "1100").

Mona discloses a system, comprising:

means for receiving from the viewer one or more selections of objects in the at least one room during displaying of any view of the plurality of views of the at least one room to the viewer (Mona: page 2, paragraph 1, "The 'Shockwave' section allows you to pick up and rotate sculptures so you can get a close-up, 360-degree view of the details");

means for displaying to the viewer, in response to receipt from the viewer of a selection of the first object in any view of the plurality of views, the first object in a plurality of still photographs each still photograph of the plurality of still photographs taken from a different angle of a plurality of different angles around said object, the different angles being equally spaced angles 360 degrees around said object to enable the viewer to view said first object from 360 degrees around said first object and enabling said object to appear to rotate on the display device (Mona: page 2, paragraph 1).

At the time of invention it would have been obvious to a person of ordinary skill in the art to have modified the system of Schileru-Key to have including the teachings of Mona in order to allow users to get a close up, 360-degree view of product details (Mona: page 2, paragraph 1).

Referring to claims 2-5. Schileru-Key further discloses a system wherein the at least one room is a gallery, showroom, store or mall (Schileru-Key: abstract).

Referring to claim 7. Schileru-Key further discloses a system wherein at least one still photograph is identified by a unique frame address (Schileru-Key: Fig. 4).

Referring to claims 8-9. Schileru-Key further discloses a system wherein the displaying means include at least video and audio (Schileru-Key: column 2, lines 10-19).

Referring to claim 10. Schileru-Key further discloses a system wherein each object in the data packet is assigned a unique identification indexed by an area said each object occupies in the still photograph (Schileru-Key: Fig. 11).

Referring to claim 11. Schileru-Key further discloses a system wherein at least one link is assigned to said object, thereby enabling detailed information regarding the object to be retrieved from an external database for presentation to the viewer (Schileru-Key: column 12, line 63 to column 13, line 2).

Referring to claim 20. Claim 20 contains similar limitations as set forth above. Claim 20 is rejected under the same rationale as set forth above.

Referring to claims 21-30. Claims 21-30 contain similar limitations as set forth above. Claims 21-30 are rejected under the same rationale as set forth above.



***Response to Arguments***

Applicant's arguments with respect to the pending claims have been considered but are not persuasive.

The Applicant argues that there is clearly no mention of photographs each taken from equally spaced angles 360 degrees around said object.

The Examiner notes, Mona discloses a method wherein a "Shockwave" section allows the user to pick up and rotate sculptures so they can get a close-up, 360-degree view of the details (Mona: page 2, paragraph 2). Inherently the angles in Mona would be equally spaced 360 degrees around said object; otherwise Mona would be inoperable for its intended purpose. Furthermore, the structure corresponding to the "means for displaying to the viewer" recited in the claims is not clearly defined by the specification, so for the purpose of examination it is assumed that the structure recited in the references are substantially identical to that of the claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/  
Primary Examiner, Art Unit 3625